

**BEFORE THE BOARD OF APPEALS FOR THE DIVISION OF WORKERS' COMPENSATION FOR
THE STATE OF KANSAS**

SHIRLEY VAN GORDEN RENO)	
Claimant)	
)	
vs.)	DOCKET No. 199,461
)	199,462
IBP, INC.)	
Respondent)	
Self-Insured)	

STIPULATION

COMES NOW the parties and make the following stipulation:

The Workers' Compensation Appeals Board is jointly requested by the parties to adopt the following mixed findings of fact and conclusions of law and make same the order of the Appeals Board:

1. The findings of fact and conclusions of law and order set forth in the Award, the Award Nunc Pro Tunc, the Order of the Appeals Board dated October 5, 1999, and the Opinion of the Court of Appeals of the State of Kansas filed October 27, 2000, are incorporated herein to the extent they are not inconsistent with the following.

2. The parties stipulate that \$500.00 will appropriately compensate claimant for her past and future lifetime expenses concerning fitting, designing and purchasing custom brassieres. Upon the payment of \$500.00, respondent is relieved from all further obligation to claimant with regard to custom brassieres.

3. 10.57 weeks of TTD were awarded and paid in Docket No. 199,461. No TTD was awarded or paid in Docket No. 199,462. No further temporary total disability benefits are due claimant at this time.

4. In Docket No. 199,461 the average weekly wage, including all fringe benefits, is \$293.85 and the permanent partial disability benefit rate is \$195.91.

5. In Docket No. 199,462 the average weekly wage, including all fringe benefits, is \$238.56 per week and the permanent partial disability benefit rate is \$159.05 per week.

6. In Docket No. 199,461 claimant is awarded a 50% functional impairment to the upper extremity at the shoulder level represented by 107.22 weeks of permanent partial disability benefits at the rate of \$195.91 totaling \$21,005.47, all of which is presently due.

7. In Docket No. 199,462 claimant is found to be totally permanently disabled and entitled to the payment of the maximum amount of \$125,000.00 payable at the rate of \$159.05 per week for 785.92 weeks beginning 10/24/95.

8. Respondent is entitled to a credit by virtue of payments to be made in Docket No. 199,461 against payments to be made in Docket No. 199,462. Claimant was awarded a total of 107.22 weeks of permanent partial disability benefits in Docket No. 199,461. 40.57 of those weeks occurred before the second accident on 10/24/95 in Docket No. 199,462. Per K.S.A. 44-510a, respondent is entitled to a credit of 66.65 weeks. This was determined by deducting the weeks preceding the date of accident from the PPD award in Docket No. 199,461.

Accordingly, claimant's award of 785.92 weeks in Docket No. 199,462 is reduced by 66.65 weeks to 719.27 weeks at \$159.05 per week for a total award of \$114,399.89.

9. In Docket No. 199,462 the amount due and owing through February 12, 2001, is 276 weeks at \$159.05 per week, or \$43,897.80. Respondent has made payments

at the rate of \$54.87 between 7/17/98 thru 7/26/99 and at the rate of \$152.52 between 7/27/99 thru 2/1/01 in the total amount of \$15,132.46; thus the net amount due claimant by respondent for PPD due thru 2/12/01 in Docket No. 199,462 is \$28,765.34. Thereafter, the remaining \$70,502.09 in PPD benefits shall be paid at the rate of \$159.05 per week until fully paid.

Date

John J. Bryan #06744
BRYAN, LYKINS, HEJTMANEK, FINCHER, P.A.
P. O. Box 797, Topeka, KS 66601
(785) 235-5678 (785) 357-1729 (fax)
Attorney for Claimant

Date

Bradley Thornton
Litigation Attorney for IBP, Inc.
P. O. Box 515, Dakota City, NE 68731
Attorney for Respondent

c: Brad E. Avery